

1 MELINDA HAAG (CABN 132612)  
United States Attorney  
2 J. DOUGLAS WILSON (DCBN 412811)  
Chief, Criminal Division  
3 THOMAS E. STEVENS (CABN 168362)  
4 Assistant United States Attorney  
1301 Clay Street, Suite 340S  
5 Oakland, California 94612  
6 Telephone: (510) 637-3680  
FAX: (510) 637-3724  
7 Thomas.Stevens@usdoj.gov

**FILED**

OCT 28 2013

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

11 UNITED STATES OF AMERICA, ) CASE NO. CR-13-0638 JST  
12 Plaintiff, ) ~~STIPULATION AND [PROPOSED]~~  
13 v. ) PROTECTIVE ORDER  
14 JAMES ROSS, )  
15 Defendant. ) OAKLAND VENUE

16 Pursuant to Federal Rule of Criminal Procedure 16(d), the United States and the defendant,  
17 through their undersigned counsel, hereby stipulate and agree that the Court should issue the proposed  
18 Protective Order requiring that all documents and other materials produced by the government to the  
19 defendants be subject to the following conditions:

20 1. Protected Material

21 The government anticipates producing a relatively large volume of documents in this case.  
22 Substantial portions of the discovery include confidential personal identifying information (e.g.,  
23 residential and email addresses, telephone numbers, social security numbers) and financial information  
24 (e.g., bank account numbers) relating to the defendant, alleged victims, and certain third parties.

25 In order to expedite discovery, and avoid any potential delay which might result from redacting  
26 confidential information from the documents prior to their production, the parties have agreed to certain  
27 restrictions on documents labeled and otherwise classified as "Protected Material." If the government  
28

STIPULATION AND [PROPOSED] PROTECTIVE ORDER; CR-13-0638 JST

1 considers any of the materials it produces to be Protected Material, the government shall so indicate on  
2 the cover of any CDs, hard-copy documents or other media by which such information is produced,  
3 and/or in the accompanying cover letter

4 Possession of copies of the Protected Material shall be limited to attorneys for the defendant,  
5 including any investigators, paralegals, law clerks, assistants and other persons who are within the  
6 attorney-client privilege (hereinafter collectively referred to as "members of the defense team"). The  
7 defendant may possess the Protected Material only in the presence of his attorneys or members of the  
8 defense team; the defendant may not retain his own copies. However, the defendant may retain copies  
9 of Protected Material if confidential personal identifying information and financial information have  
10 been redacted from the documents prior to providing the defendant copies of said Protected Material.  
11 This redaction provision does not apply to confidential personal identifying information and financial  
12 information pertaining to the defendant or members of his immediate family; the defendant may retain  
13 unredacted copies of such information.

14 The defendant, his attorneys, and members of the defense team may use the Protected Material  
15 for any purpose consistent with defending against the allegations in the Indictment. The defendant, his  
16 attorneys, and members of the defense team may show the Protected Material to witnesses or  
17 prospective witnesses in conjunction with their defense of this case, but may not permit such persons to  
18 retain copies. The defendant, his attorneys, and members of the defense team agree not to share,  
19 duplicate, or give copies of the Protected Material to other persons.

20 Pursuant to Fed. R. Crim. P. 16(d)(1), the parties may, for good cause shown, seek an order  
21 modifying this Protective Order to, for example, exclude certain documents from the category of  
22 Protected Material, and nothing about this stipulation and order shall constrain the ability of the parties  
23 to seek, or the ability of the Court to grant, such relief.

24 Consistent with and in no way limiting the previous paragraph, if the defendant objects to the  
25 government's designation of materials produced as Protected Material, the defendant may, after making  
26 a good faith effort to resolve such objection, move on reasonable notice for an order vacating the  
27 designation. While such application is pending, the materials at issue shall be treated as Protected  
28 Material. The government shall have the burden of establishing that the materials are entitled to the  
STIPULATION AND [PROPOSED] PROTECTIVE ORDER; CR-13-0638 JST

1 protection afforded to Protected Material.

2       2.     Court Filings

3       The parties further agree that they will make good faith efforts to undertake all reasonable and  
4 practicable steps to prevent the public disclosure in court filings of confidential information (including,  
5 but not limited to, social security numbers, phone numbers, addresses, email addresses) that is contained  
6 in the Protected Material. Such steps may include, but are not limited to, filing under seal, redacting, or  
7 coding the information.

8       3.     Return or Destruction of Protected Material

9       The defendant, his attorneys and the members of the defense team shall return to the government  
10 all Protected Material provided pursuant to this Protective Order, or certify in writing to the U.S.  
11 Attorney's Office that the Protected Material has been destroyed, within ninety (90) calendar days after  
12 any one of the following events, whichever occurs latest in time: (a) dismissal of all charges against the  
13 defendant; (b) the defendant's acquittal after trial by court or jury; (c) if defendant is convicted, the  
14 expiration of the time period in which a direct appeal may be taken; (d) if a direct appeal is taken, the  
15 date on which any such appeal is finally determined; and, (e) expiration of time for the defendant's  
16 application for habeas corpus relief. However, the defendant's counsel shall be entitled to retain court  
17 papers, correspondence, pleadings, deposition and trial transcripts and attorney work product, provided  
18 that such counsel (and employees of such counsel) shall not disclose the court papers, correspondence,  
19 deposition and trial transcripts or attorney work product to any person not subject to the provisions of  
20 this Protective order, except pursuant to a court order or agreement with the government.

21       //

22       //

23       //

24       //

25       //

26       //

27       //

28       //

STIPULATION AND [PROPOSED] PROTECTIVE ORDER; CR-13-0638 JST

1 The government will maintain a copy of all Protected Material in compliance with its normal  
2 document retention policies.

3 SO STIPULATED.  
4

5 DATED: October 25, 2013  
6

7 MELINDA HAAG  
8 United States Attorney  
9

10 /s  
11 THOMAS E. STEVENS  
12 Assistant U.S. Attorney  
13

14 /s  
15 JOSHUA HILL  
16 Attorney for Defendant James Ross  
17

18   
19 **[PROPOSED] ORDER**  
20

21 Pursuant to the parties' stipulation, and good cause appearing therefor, it is so ORDERED.  
22

23 DATED: 10/26/13  
24

25   
26 JON S. TIGAR  
27 United States District Judge  
28

STIPULATION AND [PROPOSED] PROTECTIVE ORDER; CR-13-0638 JST